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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,447	12/26/2000	Thomas Kotlarski	1354	9034

7590

04/10/2003

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EXAMINER

GRAHAM, GARY K

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant No.

09/674,447

Applicant(s)

KOTLARSKI ET AL.

Examiner

Gary K Graham

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: Reference to the claims from the written description appears improper. The written description should not look to the claims to define the invention. For example, see page 1, line 1 under "Prior Art".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following is exemplary only. Applicant should review all the claims for like deficiencies.

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In claim 1, line 5, use of "strip-like" appears vague and indefinite. Use of the term "like" leads to confusion as to exactly what is being claimed. Use of the term ---shaped--- would appear more appropriate. In line 6, there is no antecedent basis for "the inner edges". Also, reference to "the carrying rail" appears confusing since two rails have been set forth. In line 9, there is no antecedent basis for "the upper strip". In line 11, there is no antecedent basis for "the first L-leg". Also, "L-leg" should be ---L-legs---. In line 12, "L-leg" should be ---L-legs---. Also, there is no antecedent basis for "the second L-leg". In line 13, there is no antecedent basis for "the distance". In line 14, there is no antecedent basis for "the inner edges". In lines 15-16, defining that the width of the rails plus the width of the web is greater than the width between the legs is somewhat confusing. Note that in the assembled state, as shown in figure 2 the width of the rails plus the web is equal to the width between the L-legs. It appears applicant should set forth that the width of the web in an uncompressed state plus the width of the rails is greater than the width between the opposing L-legs, or the like. Additionally, the width of the rails plus the web should be clearly defined as being measured at a longitudinal location along the blade that corresponds to the location of the holder.

In claim 3, lines 2 and 4, use of "like" is indefinite since it is not clear exactly what is plate-like.

In claim 4, line 2, there is no antecedent basis for "the longitudinal sides".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

~~(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.~~

Claims 1-6 and 9-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Oishei et al '123.

The patent to Oishei discloses the invention as is claimed (fig.4). Note rails (31') which are received within grooves of the wiper strip (29). The rails have projections (35) thereon that engage and compress the web of the wiper strip. Plate-"like" holder (12) has a pair of L-legs (22) which engage said rails. Note figure 4 wherein it can clearly be seen that the width between the L-legs is less than the width of the rails plus the web. Such is true either in a compressed state or an uncompressed state. Prior to the rails engaging the grooves, the width of the rails, including projections (35) plus the web is greater than the width between L-legs. Otherwise, compression would not occur. Additionally, the notches (30) provide for the width of the rails (spaced from the notches) plus the web being greater than the width between the L-legs.

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Claims 1-7 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Scinta '298.

The patent to Scinta discloses the invention as is claimed (fig.4). Note rails (31) which are received within grooves (30) of the wiper strip (29). Plate-"like" holder (19) has a pair of L-legs which engage said rails. Note figure 4 wherein it can clearly be seen that the width between the L-legs is less than the width of the rails plus the web. Such is true in an uncompressed state. Prior to the rails engaging the grooves, the width of the rails plus the web is greater than the width between L-legs. Such is the reason for the tilting or angling of the rails. Otherwise, compression would not occur.

With respect to claim 14, Scinta meets the claim. Scinta does have rails that are angled as is claimed. Note that the method does not claim a particular manner of inserting (such as laterally with respect to strip elongation) the wiper strip and rail combination into the holder.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oishei et al '123 in view of Beneteau et al '326.

The patent to Oishei discloses all of the above recited subject matter with the exception of the holder being of plastics.

The patent to Beneteau discloses making the wiper holder (1,11) of either metal or plastics material (see figs. 2 and 6, respectively).

It would have been obvious to one of skill in the art to make the holder of Oishei of plastics material, as clearly taught by Beneteau, to make the wiper blade lighter and cheap. Use of either metal or plastic materials to make vehicle components, especially wiper components, is extremely well known. The particular choice being based more on the preference of the manufacturer than on any inventive concept.

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Claim 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scinta '298 in view of Beneteau et al '326.

The patent to Scinta discloses all of the above recited subject matter with the exception of the holder being made of plastics or metal material.

~~The patent to Beneteau discloses making the wiper holder (1,11) of either metal or plastics material (see figs. 2 and 6, respectively).~~

It would have been obvious to one of skill in the art to make the holder of Scinta of plastics or metal material, as clearly taught by Beneteau, to provide either a lightweight holder or an increased strength holder. Use of either metal or plastic materials to make vehicle components, especially wiper components, is extremely well known. The particular choice being based more on the preference of the manufacturer than on any inventive concept.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oishei et al '123 in view of Samartgis '100.

The patent to Oishei discloses all of the above recited subject matter with the exception of the projections being offset with respect to one another and a projection being opposite a recess in opposing rails.

The patent to Samartgis discloses carrying rails (13) wherein sharp projections (12a,12b) are provided thereon and arranged offset with respect to one another. Such an arrangement defines a recess in one rail being offset from the projection (12b).

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It would have been obvious to one of skill in the art to provide the projections of Oishei in a manner as suggested by Samartgis such they are sharp and are offset with respect to one another. Such an arrangement would appear to increase the holding strength of the rails.

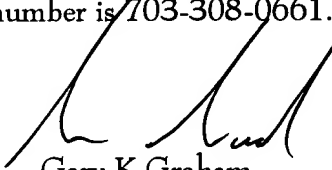
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 703-308-1270. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 703-308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Gary K Graham
Primary Examiner
Art Unit 1744

GKG
April 8, 2003